

SENATE BILL No. 326

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-23-3-22.

Synopsis: Motor vehicle franchise transfers procedure. Provides for transactions involving the transfer of a new motor vehicle franchise by a franchisee. Provides for franchisor approval of the transferee. Requires the franchisor to objectively review the transferee. Creates other requirements for franchisors, franchisees, and transferees.

Effective: July 1, 1999.

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January 8, 1999, read first time and referred to Committee on Commerce and Consumer Affairs.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 326



A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-23-3-22 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1999]: **Sec. 22. (a) If the sale or transfer of:**
4 **(1) the business and assets of;**
5 **(2) a complete ownership interest in; or**
6 **(3) a controlling interest in the capital stock of;**
7 **a new motor vehicle dealer contemplates or is conditioned on a**
8 **continuation of the franchise relationship with the permanent**
9 **nonconditional franchisor, and the proposed transferee has**
10 **indicated a willingness to comply with all requirements of the**
11 **franchise then in effect, the franchisee shall notify the franchisor**
12 **of the intention by written notice setting forth the prospective**
13 **transferee's name and address and the names and addresses of the**
14 **transferee's prospective management personnel.**
15 **(b) The franchisee and prospective transferee shall supply the**
16 **franchisor with other information regarding the transferee's**
17 **character, business experience, and financial ability as reasonably**



1 requested by the franchisor to enable the franchisor to evaluate the
2 transferee's qualifications and ability to comply with the
3 requirements of the franchise then in effect.

4 (c) The franchisor shall evaluate the prospective transferee and
5 the transferee's prospective management personnel on the basis of
6 reasonable and objective criteria applied fairly and objectively.

7 (d) The franchisor has the burden of proof to establish that good
8 cause exists to refuse the sale or transfer to the transferee. Good
9 cause to refuse a sale or transfer under this section is established
10 only when the sale or transfer is to a transferee who would not
11 otherwise qualify for a new motor vehicle dealers license under
12 IC 9-23-2 or when the sale or transfer is to a person or party who
13 is not of good moral character or does not meet the franchisor's
14 existing and reasonable capital standards.

15 (e) The franchisor shall provide the franchisee and the
16 prospective transferee with written notice by certified mail of a
17 refusal to approve a sale or transfer of the business and assets or
18 all the business and assets or a controlling interest in the capital
19 stock of a new motor vehicle dealer within thirty (30) days of
20 receipt of the written notice advising of the proposed transfer. The
21 notice must specify the objective criteria used to evaluate the
22 prospective transferee and the criteria that the transferee failed to
23 meet.

24 (f) Notwithstanding the terms, conditions, or provisions of a
25 franchise or the date the franchise was executed, the following do
26 not constitute sufficient good cause for failing to approve a sale or
27 transfer to, or refusing to continue the permanent nonconditional
28 franchise relationship with, a prospective transferee:

29 (1) The prospective transferee or any of the prospective
30 management personnel of the prospective transferee do not
31 reside within the relevant market area of the affected
32 dealership.

33 (2) The prospective transferee does not intend to be employed
34 full time in the dealership operation.

35 (3) The prospective transferee, or the owner of an interest,
36 owns, has an investment in, participates in the management
37 of, or holds a license for the sale of another make or line of
38 new motor vehicle at another location.

39 (4) The franchisor has previously determined to discontinue
40 the franchise relationship with the transferor.

41 (5) The prospective transferee proposes to relocate the
42 business of the transferor, if the relocation facility meets the

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- 1 **franchisor's facility standards.**
- 2 **(g) A franchisor may not impose a condition upon approval of**
- 3 **a proposed transfer other than the transferee's compliance with**
- 4 **the requirements of the franchise agreement between the**
- 5 **franchisor and the transferor.**
- 6 **(h) An owner of a new motor vehicle franchise may appoint, by**
- 7 **will or other written instrument, a designated family member to**
- 8 **succeed in the ownership interest of the new motor vehicle**
- 9 **franchise.**
- 10 **(i) Violation of this section by a franchisor is an unfair practice**
- 11 **by the franchisor.**

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